



U.S. Department of Justice
Drug Enforcement Administration
FOI/Records Management Section
8701 Morrisette Drive
Springfield, Virginia 22152

APR 11 2013

Case Number: 12-00324-F

Subject: REQUESTING INFORMATION RELATED TO COMPLAINTS FILED IN SANTA BARBARA COUNTY FOR MEDICAL MARIJUANA FROM JANUARY 1, 2007 TO PRESENT

Alex Luhrman
MuckRock News
DEPT MR 1325
P.O. Box 55819
Boston, Massachusetts 02205-5819

Dear Mr. Luhrman:

This letter responds to your Freedom of Information/Privacy Act (FOI/PA) request dated May 24, 2012, addressed to the Drug Enforcement Administration (DEA), Freedom of Information/Privacy Act Unit (SARF), seeking access to information regarding the above subject.

Please be advised, your request for, "all case files, emails, electronic communications, etc." request fails to meet the requirements of the FOIA, 5 U.S.C. § 552 (a)(3)(A) and the Department of Justice (DOJ) rules, contained at 28 C.F.R. § 16.3(b), provide that "you must describe the records in enough detail to enable department personnel to locate them with a reasonable amount of effort" and when possible, your request should include specific information about each record sought such as the date, title or name, author, recipient and subject matter of the record. These specifics are important to determine the extent and scope of the search, and to determine the records that are responsive. DEA can make certain presumptions to overcome some of the deficiencies in your request, but not all of them.

Further, based on the information provided in your request, to retrieve the information that you may be seeking requires more specificity. Under the FOIA, an agency is not required to research a topic, create records or engage in a far reaching search to satisfy a FOIA request. As such, your request is overly broad and over burdensome. To locate e-mails and/or correspondence electronically stored requires a full text search of all DEA e-mail accounts, or a search of all documents previously stored as a result of requests for information. Without identifying the sender and/or recipient, and/or a specific date would cause an interruption in normal DEA operations. Thus, the process of searching for correspondence and/or e-mails would be over burdensome.

With regards to “case files”, in accordance with the Privacy Act, rules were promulgated, pursuant to 5 U.S.C. § 552a(j)(2), to exempt records contained in IRFS from access. *See* 28 C.F.R. §16.98(c)(3). As provided in the Privacy Act, 5 U.S.C. § 552a(b), except pursuant to a written request by, or with prior written consent of, the individual to whom the record pertains, unless disclosure of the record is required by the FOIA, for a routine use or pursuant to the order of a court of competent jurisdiction, information can be withheld by DEA. No routine use exists for and no release authorization or proof of death for the release of any information related to any third-party, and no court order has been received. Thus, the release of information is only that which would be required by the FOIA.

All the records contained in criminal investigative files that are maintained in the IRFS are criminal investigative records that are compiled during criminal law enforcement investigations. Information gathered during the course of a DEA investigation is systematically gathered and included in investigative case files. This information relates to the case subject and may also include other individuals such as those who are suspected of engaging in criminal activity in association with the subject of the file. Information included in the files is that which is gathered by DEA special agents, reports prepared by intelligence analysts, and information obtained from numerous sources, such as other Federal, state and local law enforcement agencies, confidential sources and foreign governments. Thus, information that is properly classified, that relates solely to internal practices and procedures, that pertains to any third party, for which a release authorization is not received, that would identify or obtained from a confidential source, and/or that could endanger the life or physical safety of any individual can be withheld.

Your request for records pertaining to “*complaints filed in Santa Barbara county...*” be advised that under the FOIA, agencies are not required to conduct a search for records not in the control and custody of that agency. These records would not likely be located in the DEA systems of records. However, you may wish to contact the court house in Santa Barbara.

In your letter, you requested a waiver of fees. Please be aware that when a fee waiver is considered, the Department of Justice (DOJ) policy (28 C.F.R. § 16.11(k)) requires that we apply six factors to determine whether fee waiver is warranted for a request. Based on Factors (4) and (6), we have determined that it is highly unlikely that disclosure of the requested records would significantly increase the public’s understanding of government operations or activities. there is indication that you are a commercial requester. Therefore, your request for a fee waiver has been denied. While the DEA has denied you a fee waiver, since no records were located, no fees will be assessed for your request.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you wish to appeal any denial of your request, you must make your appeal in writing and it must be received by the Office of Information Policy within sixty (60) days of the date of this letter pursuant to 28 C.F.R. § 16.9. The appeal should be sent to the following address, with the envelope marked "FOIA Appeal":

DEPARTMENT OF JUSTICE
OFFICE OF INFORMATION POLICY
NYAV BUILDING, 11TH FLOOR
WASHINGTON, D.C. 20530

If you have any questions regarding this letter, you may contact FOI Specialist L. Johnson on 202-307-4181.

Sincerely,

A handwritten signature in cursive script that reads "Katherine Myrick".

Katherine L. Myrick, Chief
Freedom of Information/Privacy Act Unit
FOI/Records Management Section